THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE MR JUSTICE D.APPA RAO

WRIT APPEAL NO.156 of 2006

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15th February 2006

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 22.08.2005 in W.P.NO.3550 OF 2005 on the file of the High Court.)

Between:

1. The A.P. Central Power Distribution Company, Ltd., rep. by Chairman & M.D., Singareni Bhavan, Hyderabad.

And one other.

...APPELLANTS

AND

1. B. Tukaram, S/o. Vittal,
R/o. Kangti Vill, Narayankhed, Medak District.

And one other.

...RESPONDENTS

THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE MR JUSTICE D.APPA RAO

WRIT APPEAL NO.156 OF 2006

JUDGMENT: (Per the Hon'ble Mr Justice B.Prakash Rao)

Heard both the sides.

At their request, the Writ Appeal itself is taken up for disposal at the admission stage.

The appellants/management filed this Writ Appeal seeking to assail the order dated 22.08.2005 in Writ Petition No.3550 of 2005, which was filed at the instance of the respondents herein wherein they sought to assail the two proceedings No.SB/OP/MDK/PO/ADM/D.NO.2025/2003, dated 12.12.2003 and seeking a direction to the appellants to give appointment orders to them in the existing vacancies.

The main grievance raised in this appeal by the appellants is that the same order was challenged earlier in Writ Petition No.26041 of 2003 and this Court as per the

order dated 19.12.2003 disposed of the same by giving a direction to the appellants to submit representations and the same will be considered. Admittedly, the said representation dated 15.12.2003 was disposed of as per the order dated 19.01.2004 consequent to the contempt action taken by the appellants. However, the said order dated 19.01.2004 is not challenged.

Having considered the submissions made on either side and on perusal of the material available on record, especially on a reading of the affidavit filed in support of the petition, it is seen that there is no mention in regard to Writ Petition No.26401 of 2003 and the order passed thereon. However, the prayer shows that the appellants did not challenge the order dated 19.01.2004. *Prima facie* we are of the opinion that unless and until the order dated 19.01.2004 is challenged, the appellants cannot challenge the order dated 19.12.2003 in Writ Petition No.26401 of 2003. The learned Single Judge, while disposing of the Writ Petition, did not go into the merits in either way nor has considered the fact of the earlier order dated 19.12.2003 in W.P.No.26401 of 2003 and the subsequent order passed by the authorities on 19.01.2004. In view of the same, it would suffice in the interest of justice to give an opportunity to the appellants to seek appropriate amendment in the prayer and for fresh disposal of the Writ Petition on merits. We are adopting this course because of the fact that the appellants fairly mentioned about the earlier Writ Petition and the order passed thereon but we found that appropriate prayer is missing in the prayer portion.

The Writ Appeal is accordingly allowed and the order dated 22.08.2005 in W.P.No.3550 of 2005 is set aside. The matter is remitted to the learned Single

Judge for fresh disposal on merits in accordance with law. It is needless to mention that it shall be open for the appellants to file appropriate application seeking amendment of the prayer and an opportunity is given to them for filing any further pleadings in the form of a counter affidavit or otherwise. No costs.

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(B.PRAKASH RAO, J)

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(D.APPA RAO, J)

15th February 2006

Note: CC in three days

B/O

RRB

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